

### **REMARKS**

This responds to the Office Action mailed on April 13, 2004.

Claims 51, 53, 55, 56, 60, and 66 are amended, no claims are canceled, and no claims are added; as a result, claims 51-56, 60-73, 75-78, and 81-85 are now pending in this application.

#### **Double Patenting Rejection**

Claims 60, 61, 63-67, 69-73, 76-78, 81, and 84-85 were rejected under the judicially created doctrine of double patenting over claims 48-50 and 60-80 of U.S. Application No. 09/940980. Claims 60, 61, 63-67, 69-73, 76-78, 81, and 84-85 were rejected under the judicially created doctrine of double patenting over claims 44-45 and 60-83 of U.S. Application No. 09/940917. Claims 60, 61, 63-67, 69-73, 76-78, 81, and 84-85 were rejected under the judicially created doctrine of double patenting over claims 46-47 and 57-82 of U.S. Application No. 09/941123.

Applicant respectfully traverses the double patenting rejections with respect to the three above listed serial numbers. The present application is a divisional application of Patent No. 6,284,316. A restriction requirement was made during prosecution of the 6,284,316 parent which claimed that the application included five “separate and distinct products and inventions.” A copy of the restriction requirement is attached for your review. The above listed applications are drawn to Groups II-IV of the restriction requirement, while the present application was filed with claims drawn to Group V of the restriction requirement.

Pursuant to 35 USC §121, applicant respectfully submits that a double patenting rejection is not supported under the present circumstances. Reconsideration and withdrawal is respectfully requested.

Claims 51-56, 60-73, 75-78, and 81-85 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,433,434.

The above listed claims were rejected under a non-statutory double patenting rejection. Applicant does not admit that claims are obvious in view of the listed references. However, a

Terminal Disclaimer in compliance with 37 CFR 1.321(b)(iv) is enclosed herewith to obviate this rejection.

*§112 Rejection of the Claims*

Claims 51-56, 60-73, 75-78, and 81-85 were rejected under 35 USC § 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant assumes that claims 75-78 and 81-85 were inadvertently included in this and the following 35 USC § 112, second paragraph rejections. The rejections as stated by the Examiner concern the language “similar chemical profile.” Claims 75-78 and 81-85 do not include this language.

The rejection states that, “it is unclear what is encompassed by the ‘chemical profile’ and how one of ordinary skill in the art would determine such a profile.” Applicant has removed the language “similar chemical profile” from the claims. Applicant does not admit that the language in question is new matter, however, Applicant has removed the language to advance prosecution in this application. Applicant respectfully submits that the 35 USC § 112, first paragraph rejection is now moot. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 51-56, 60-73, 75-78, and 81-85 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Pursuant to the Examiner’s suggestion, Applicant has amended independent claims 51, 53, 55, 56, 60, and 66 to include a titanium alloy layer having a composition that is uniform in walls and a base portion of the titanium alloy layer. Applicant respectfully submits that the claims are now sufficient under 35 USC § 112. Reconsideration and withdrawal of the rejections is respectfully requested.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6944 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

GURTEJ S. SANDHU ET AL.

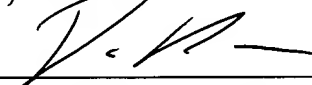
By their Representatives,

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Date

7-9-04

By



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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 9th day of July, 2004.

Name

Amy Moriarty

Signature

